

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

and TRACY MILES,

Plaintiff-Intervenor,

v.

ORDER  
03-CV-670

CONCRETE APPLIED CONSTRUCTION  
TECHNOLOGIES CORP., d/b/a CATCO  
CONSTRUCTION CO.

Defendant.

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This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1), on December 18, 2003. On October 22, 2004, defendant filed a motion for motion for summary judgment. On June 28, 2007, Magistrate Judge Foschio filed a Report and Recommendation, recommending that defendant's motion for summary judgment should be denied.

Defendant filed objections to the Report and Recommendation on July 19, 2007 and plaintiffs filed a response thereto. Oral argument on the objections was held on August 27, 2007.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which

objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, defendant's motion for summary judgment is denied. The parties shall be present on September 7, 2007 at 9:00 a.m. for a meeting to set a trial date.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: August 29, 2007